

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KHALIF SEARS,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 22-CV-1086
	:	
CITY OF PHILADELPHIA, <i>et al.</i>,	:	
Defendants.	:	

ORDER

AND NOW, this 19th day of September, 2022, upon consideration of Plaintiff Khalif Sears's Amended Complaint (ECF No. 16), it is **ORDERED** that:

1. The Court dismissal Order filed on September 7, 2022 (ECF No. 15) is

VACATED.

2. The Clerk of Court is **DIRECTED** to reopen this case.

3. All claims against the City of Philadelphia and the individual capacity excessive force claims against Defendants Police Officer Cyprian Scott, Police Officer Demetrius Monk, Police Officer Jacob Hollis, and the Other Unknown Officers and Supervisors are **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons stated in the Court's Memorandum.

4. The Clerk of Court is **DIRECTED** to terminate the City of Philadelphia as a Defendant.

5. The Clerk of Court shall issue summonses directed to Police Officer Patrick Saba, Police Officer Alexander Norat, Police Officer Thomas Fitzpatrick, Police Officer Cyprian Scott, Police Officer Demetrius Monk, and Police Officer Jacob Hollis. Service shall be made upon any John or Jane Doe Defendants if and when Sears provides sufficient identifying information

to allow for service. Service of the summonses and the Complaint shall be made upon the Defendants by the U.S. Marshals Service. Sears is **REQUIRED** to complete USM-285 forms so that the Marshals can serve the Defendants. Failure to complete those forms may result in dismissal of this case.

6. All original pleadings and other papers submitted for consideration to the Court in this case are to be filed with the Clerk of Court. Copies of papers filed in this Court are to be served upon counsel for all other parties (or directly on any party acting *pro se*). Service may be made by mail. Proof that service has been made is provided by a certificate of service. The certificate of service should be filed in the case along with the original papers and should show the day and manner of service. An example of a certificate of service by mail follows:

“I, (name), do hereby certify that a true and correct copy of the foregoing (name of pleading or other paper) has been served upon (name(s) of person(s) served) by placing the same in the U.S. mail, properly addressed, this (day) of (month), (year).

(Signature)”

7. Any request for court action shall be set forth in a motion, properly filed and served. The parties shall file all motions, including proof of service upon opposing parties, with the Clerk of Court. The Federal Rules of Civil Procedure and Local Rules are to be followed. Sears is specifically directed to comply with Local Civil Rule 7.1 and serve and file a proper response to all motions within fourteen (14) days. Failure to do so may result in dismissal.

8. Sears is specifically directed to comply with Local Rule 26.1(f) which provides that “[n]o motion or other application pursuant to the Federal Rules of Civil Procedure governing discovery or pursuant to this rule shall be made unless it contains a certification of counsel that the parties, after reasonable effort, are unable to resolve the dispute.” Sears shall attempt to

resolve any discovery disputes by contacting Defendants' counsel directly by telephone or through correspondence.

9. No direct communication is to take place with the United States District Judge or United States Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk of Court.

10. In the event a summons is returned unexecuted, it is Sears's responsibility to ask the Clerk of Court to issue an alias summons and to provide the Clerk with the Defendant's correct address, so service can be made.

11. The parties should notify the Clerk's Office when there is an address change. Failure to do so could result in court orders or other information not being timely delivered, which could affect the parties' legal rights.

BY THE COURT:

/s/ John Milton Younge

JOHN MILTON YOUNGE, J.